

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
)	
Delphi Corporation, et al.)	Case No. 05-44481
)	
Debtors)	
)	
)	

MOTION FOR RELIEF FROM AUTOMATIC STAY

Hearing Date: April 7, 2006

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I.

Plaintiff, Arlis M. Elmore, is a creditor of the debtor, above named, and is a party in interest in these proceedings.

II.

Defendants, Delphi Corporation is the above named debtor.

III.

This is an action under 11 USC 5 Section 362 (d)(1) for relief from the automatic stay arising from the filing of the petition in the above captioned proceeding. The Court has jurisdiction of this case pursuant to 28 USCS 1334.

IV.

Arlis M. Elmore, Jr. is a Plaintiff in Civil Action Number CV-2003-1027 now pending in the Circuit Court of Tuscaloosa County, Alabama wherein, Delphi Corporation, debtor, is a named Defendant.

V.

Plaintiff Arlis M. Elmore, Jr. filed the original lawsuit in the Circuit Court of Tuscaloosa County, Alabama in July of 2003. The basis of that action is for monetary damages for workers compensation and for bodily injury arising out of the negligent ownership, use, operation and design of a forklift.

Plaintiff and Defendants are still actively in the discovery process as this lawsuit is still active in Tuscaloosa County Alabama.

VI.

An automatic stay took effect on the filing of the petition in Bankruptcy on October 8, 2005, prohibiting among other things, further proceedings in the action described.

VII.

Arlis M. Elmore, Jr. is entitled to relief from the operation of such stay for the reason that there is a civil action in place to pay a judgment in accordance with benefits available under the laws of the State of Alabama. The Complaint alleges worker's compensation benefits, breeches of the Alabama Extended Manufacturers Liability Doctrine, and various counts of negligence against numerous Defendants for tremendous physical injuries and related medical bills and permanent disability incurred by Arlis M. Elmore, Jr. as shown by the copy of the original Complaint and subsequent amendments which are attached as Exhibit 1.

The debtor will not be harmed by the lifting, annulling, and/or modification of the automatic stay because, such claims as alleged by Plaintiff are only being pursued to the extent there is Insurance Coverage that will cover the injuries and damages to Plaintiff.

Plaintiff will not be making any additional claims against Delphi or other named Defendants for any monetary damages other than those covered by Insurance. To the extent that such claims may not be covered by insurance, Plaintiff will not seek relief from Delphi for said non-covered claims.

If the stay is allowed to remain in full force and effect the defendants will escape liability for their tortuous conduct and Plaintiff will suffer egregious harm due to the inability to recover compensation for lost wages, medical expenses, and permanent disability which are due the Plaintiff outside those benefits paid by the workers compensation carrier.

All other creditors of the debtor will not be affected by the lifting, annulling, and/or modification of the automatic stay due to the fact that said claims of the Plaintiff are and/or maybe covered by applicable insurance and to the extent they are not covered by insurance Plaintiff will not be asserting a claim to any assets of Delphi, therefore, no assets of the debtor's estate will be affected by the aforementioned lawsuit.

As previously stated the underlying lawsuit was filed in the Circuit Court of Tuscaloosa County, Alabama in 2003 and a tremendous amount of discovery has been conducted in this matter. Given the advanced state of the litigation in state court in this case, the resolution of the claims can be reached quickly and efficiently.

VIII.

Wherefore, Arlis M. Elmore, Jr., respectfully prays that after such notice of and hearing upon this motion as the court deems appropriate, the court grant relief from the automatic stay by terminating, annulling, and/or modifying such stay with respect to its effect on Arlis M. Elmore, Jr.

STATEMENT REGARDING ORAL ARGUMENT

Plaintiff Arlis M. Elmore, Jr. believe the facts and legal arguments have been adequately presented before this Honorable Court through this Motion; and therefore, they do not request oral argument. However, Plaintiff Arlis M. Elmore, Jr., welcomes the opportunity to argue this case orally before this Honorable Court in the event the Court should desire the parties to do so.

Dated this 7th day of March, 2006.

/s/Gene T. Moore
Gene T. Moore (MOO-068)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing either: by mailing a copy of the foregoing document to the following attorney(s) of record for the parties, as well as, to all creditors on the Matrix and their Counsel through the Southern District of New York CM/ECF electronic database:

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Dated this the 7th day of March, 2006.

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